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THE VALIDITY OF THE ENHANCEMENT OF THE LIMIT OF SMALL CAUSE JURISDICTION BY MADRAS ACT XVI OF 1951.

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With reference to the Note on the above subject published at page 20 of the Journal Part of the current volume of the Madras Law Journal and the criticism thereon appearing in page 26 of the same volume, it is pertinent to note that really no question arises as to the *vires* or competence of the State Legislature to enact Madras Act XVI of 1951. As pointed out by Mr. A.S. Kuppuswamy at page 26, it is indubitable that the State Legislature has the power to make a law on the lines of Madras Act XVI of 1951 under the powers vested in it by Article 246 (3) of the Constitution read with Entries 3 and 65 of List 11 of Seventh Schedule thereof. But, it is equally clear that there is a conflict between section 15 of the Provincial Small Cause Courts Act (Central Act IX of 1887) and the provision in Madras Act XVI of 1951 empowering the High Court to invest certain District Judges and Subordinate Judges with the jurisdiction of a Judge of Court of Small Causes for the trial of suits cognisable by such Courts, " up to the amount of two thousand Rupees." By sub-sections (2) and (3) of section 15 of the Central Act IX of 1887, the maximum limit of the jurisdiction of a Court of Small Causes is fixed at five hundred rupees subject to the said limit being increased to one thousand rupees, in the case of particular Courts by a written order of the State Government in that behalf. Thus, the provisions of the recent Madras Act are plainly repugnant to the provisions of the Central Act of 1887, as regards the maximum limit of the jurisdiction of the Provincial Courts of Small Causes and of the Judges thereof.

2. The question therefore arises: How is this conflict to be solved? The answer is furnished by the very terms of sub-sections (2) and (3) of section 15 of the Central Act according to which the said provisions are, each of them, " subject " not only " to the exceptions specified in the Second Schedule " but also " to the provisions of any enactment for the time being in force." Thus, after the enactment of Madras Act XVI of 1951, the provisions thereof operate to control and override the provisions in the Central Act in fixing the maximum limits of the jurisdiction of a Court of Small Causes.

3. There is another aspect from which the matter may be viewed. The Central Act in question, Act IX of 1887, is an "existing law" as defined by clause (10) of Article 366 of the Constitution. Article 254 which provides, *inter alia*, for the resolution of conflicts between a law made by a State Legislature and " an existing law with respect to one of the matters enumerated in the Concurrent List" is silent as to how similar conflicts between the provisions of a law enacted by the State and the provisions of " an existing law " with respect to a matter in the State List, are to be resolved. It is submitted that on the principle of the maxim " *Leges posteriores*

priores contrarias abrogant" if the provisions of the earlier Act are repugnant to those of the later Act, the earlier stands impliedly repealed by the later. See Maxwell on "the Interpretation of Statutes" Ninth Edition, Chapter VII, pages 163 and 164. Also Broom's "Legal Maxims," Tenth Edition, Chapter VIII, pages 347 to 349. In this view the provision in Madras Act XVI of 1951 by which the High Court is empowered to confer on District Judges and Subordinate Judges the jurisdiction to take cognizance of and try suits of a Small Cause nature up to the limit of Two thousand rupees, must be held to override sub-sections 2 and 3 of section 15 of Central Act IX of 1887.

4. Therefore, it is submitted that in any view the doubts raised by Mr. T.S. Ramanatha Ayyar in his note at page 20 of this Journal about the validity of Madras Act XVI of 1951 are not well founded, though for reasons differert from those given by Mr. A.S. Kuppuswamy.

BOOK REVIEWS.

CENTURY DIGEST OF STATUTORY NOTIFICATIONS (1854—1954). IN THREE VOLUMES by *B.L. Goswamy*, B.A., LL.B., P.C.S., with a Foreword by the Hon. MR. Justice A.N. Bhandari, I.C.S., Chief Justice, Punjab High Court. Published by Jupiter Publications, Delhi. Price Rs. 25, per volume. Volume I—A to Def. (1955).

The first volume of this ambitious work is now before the profession and the public. The Publishers have launched upon a difficult task which deserves credit. But the welcome it will have at the hands of the people to whom it is intended is not quite certain.

As the Publishers have pointed out the work is intended to collect together Statute-wise the several Notifications issued under the various Statutes in force in the country for the past 100 years. Its utility is unquestionable so far as it goes. In these days of administrative legislation these Notifications have gained great importance. As the Publishers themselves realise the whole material in these volumes may not be required by all. In fact many of the Notifications may not at all require or merit any reference in the course of another century. But there might be some one Notification required by somebody at some stage and he will be indebted a great deal to this compilation. To that individual the work is worth its weight in gold for the success or failure of his cause might depend on this discovery, which would, but for a work of this kind, involve a great effort and in many cases be almost an impossibility. The author's work would have involved a great deal of strain and effort and one can take it that the matters given are correct till the contrary is discovered by someone in the course of a more intensive search of any particular Notification. The arrangement of the subjects in the alphabetical order of the Statutes and the collection of the Notifications under proper Statute heading is good. The loose leaf binding system to keep up the work current by issue of annual parts for a period of 5 years to come is praiseworthy.

But when all is said, it is still difficult to say whether the work has really solved the problem completely. For one thing this work relates to the Notifications issued by the Central Government under the various Statutes passed by it. But where does it carry the vast majority who have to deal with the various Notifications issued by the several States even under the Central Acts, not to mention of the various Notifications under the State legislations. Even with reference to the Notifications under the various Central Acts a mere collection of the Notifications carries the reader nowhere unless at least a reference is given to the main Act and Rules for the working of which the Notifications are issued. The Act and Rules thereunder have been subject to frequent amendments and the absence of a clue as to the effect of these amendments might sometimes lead to a misreading of the Notification. There are practical difficulties which one would experience which also deserves the attention of the Publishers if their effort is to meet with the success it deserves.